

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS METROPOLITAN
POLICE DEPARTMENT,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT FOR THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE
HONORABLE STEFANY MILEY,
DISTRICT JUDGE,

Respondents.

and

AMERICAN BROADCASTING
COMPANIES, INC.; THE
ASSOCIATED PRESS; CABLE NEWS
NETWORK, INC.; CHESAPEAKE
MEDIA I, LLC, D/B/A KSNV-TV; LOS
ANGELES TIMES
COMMUNICATIONS, LLC; THE NEW
YORK TIMES COMPANY; SCRIPPS
BROADCASTING HOLDINGS LLC
D/B/A KTNV-TV; WP COMPANY
LLC D/B/A THE WASHINGTON
POST AND LAS VEGAS REVIEW-
JOURNAL,

Real Parties in Interest.

Case No.: 76023

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D.C. Case No.: AE17-76403-A-V Brown
Cons. Case No.: AC17-0150-W Clerk of Supreme Court

Appeal from the Eighth Judicial District
Court, The Honorable Stefany Miley
Presiding.

**RESPONSE TO NOTICE OF
SUPPLEMENTAL AUTHORITY**

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RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY

Petitioner, Las Vegas Metropolitan Police Department (“LVMPD”), by and through its attorneys of counsel, the law firm of Marquis Aurbach Coffing, hereby submits its Response to Notice of Supplemental Authority pursuant to NRAP 31(e).

In accordance with NRPA 31(e), LVMPD responds to the Las Vegas Review-Journal’s Notice of Supplemental Authority and supplements its legal proposition: “Certification is Not Mandated by the NPRA and Requires the Creation of a Public Record,” pages 11–13 of LVMPD’s Reply in Support of Emergency Petition of Writ of Prohibition.

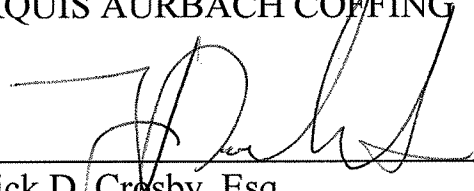
On October 18, 2018, this Court issued an opinion on *Public Employees’ Retirement System of Nevada (“PERS”) v. Nevada Policy Research Institute, Inc.* (“NPRI”), 134 Nev. Adv. Op. 81, 2018 WL, 5077907 (2018). In *PERS*, NPRI sought information, including “retiree name, payroll amount, date of retirement, years of service, last employer, retirement type, original retirement amount, and COLA increases” that was obtained in an electronic database maintained by PERS. *Id.* at *1. Based on this Court’s previous ruling in *PERS v. Reno Newspapers, Inc.*, 129 Nev. 833, 313 P.3d 221 (2013) (“*Reno Newspapers*”), PERS argued that it did

not have a record responsive to NPRI's request and that it not under an obligation to create such a record. *Id.*

The Court reiterated its position that a government entity does not have a duty to create a new record. *Id.* at *5. The Court, however, clarified what constitutes the creation of a record. *Id.* Requiring an agency to search its electronic database in order to obtain information requested does not amount to the creation of a record. *Id.* In contrast, "requir[ing] an agency to *compile a document* or report *about* the information contained in the database" would necessarily require an agency to create a record. *Id.* (emphasis added).

Dated this 16 day of November, 2018.

MARQUIS AURBACH COFFING

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY** was filed electronically with the Nevada Supreme Court on the 16 day of November, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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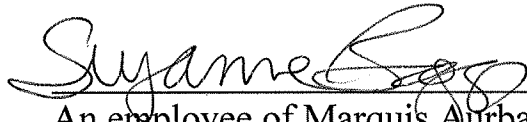
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Company; Scripps Broadcasting Holdings LLC d/b/a KTNV-TV; and WP Company
LLC d/b/a The Washington Post*

In addition, I further certify that I served a true and correct copy of the foregoing document, **RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY**, via hand delivery to:

Honorable Stefany A. Miley
Eighth Judicial District Court
Department 23
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Las Vegas, Nevada 89155
Respondent


An employee of Marquis Aurbach Coffing